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1	KAMALA D. HARRIS Attorney General of California			
2	ARTHUR D. TAGGART			
3	Supervising Deputy Attorney General ELENA L. ALMANZO			
4	Deputy Attorney General State Bar No. 131058			
5	1300 I Street, Suite 125 P.O. Box 944255			
6	Sacramento, CA 94244-2550 Telephone: (916) 322-5524			
7	Facsimile: (916) 327-8643  Attorneys for Complainant			
8	BEFORE THE			
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS			
10	STATE OF CALIFORNIA			
	C V 2013 - 739			
11	In the Matter of the Accusation Against: Case No. 2013-239			
12	MELANIE LYNN WEAVER aka MELANIE L. WEAVER			
13	600 Arabesque Circle			
14	Roseville, CA 95678			
15	Registered Nurse License No. 465252			
16	Respondent.			
17				
18	Louise R. Bailey, M.Ed., RN ("Complainant") alleges:			
19	<u>PARTIES</u>			
20	1. Complainant brings this Accusation solely in her official capacity as the Executive			
21	Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.			
22	2. On or about March 31, 1991, the Board issued Registered Nurse License Number			
23	465252 to Melanie Lynn Weaver ("Respondent"). The license was in full force and effect at all			
24	times relevant to the charges brought herein. The license expired on September 30, 2010, and ha			
25	not been renewed.			
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## **JURISDICTION**

- 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811(b), the Board may renew an expired license at any time within eight years after the expiration.

### STATUTORY PROVISIONS

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct....
- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
- 6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do the following:

- (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.
- (c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.
- (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

#### **COST RECOVERY**

- 7. Code section 125.3 (a) and (i) provides as follows:
- (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
- (i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement

#### **DRUGS**

- 8. "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate, also known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and 500 mg. acetaminophen per tablet.
- 9. "Norco" is a compound consisting of 10 mg. hydrocodone bitartrate, also known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and 325 mg. acetaminophen per tablet.

### FIRST CAUSE FOR DISCIPLINE

#### (Conviction of a Crime)

10. Respondent is subject to discipline under Code section 2761(f), in that on or about April 7, 2009, in the case of *People v. Melanie Lynn Weaver*, (Super. Ct. Placer County, Case No. 62-87696), Respondent was convicted by the Court on her plea of nolo contendere of violating Health and Safety Code section 11368 (forging and issuing a prescription), a felony, a crime that is substantially related to the qualifications, functions or duties of a licensed registered nurse. The circumstances of the crime were that on or about December 26, 2007, Respondent unlawfully forged, altered, and issued a prescription bearing a forged and fictitious signature for a narcotic drug, to wit, Vicodin.

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#### SECOND CAUSE FOR DISCIPLINE

### (Conviction Involving the Prescription of a Controlled Substance)

11. Respondent is subject to discipline under Code section 2761(a), on the grounds of unprofessional conduct as defined in Code section 2762(c), in that on or about April 7, 2009, Respondent was convicted of a crime involving the prescription of a controlled substance, as more particularly set forth above in paragraph 10.

### THIRD CAUSE FOR DISCIPLINE

### (Obtained, Possessed, and Self-Administered Controlled Substances)

12. Respondent is subject to discipline under Code section 2761(a) and 2762 (b) on the grounds of unprofessional conduct, as defined in Code section 2762(a), in that while a registered nurse, Respondent did the following:

### Sutter Memorial Hospital

### December 4, 2008, through December 31, 2008

- a. Respondent obtained Norco, a controlled substance, by fraud, deceit, misrepresentation or subterfuge or by the concealment of a material fact in violation of Health and Safety Code section 11173(a) when, while on duty, Respondent signed out Norco for various patients, then took the Norco for her own personal use.
- b. Respondent possessed Norco, a controlled substance, in violation of Code section4060, in that she did not have a prescription for that controlled substance.
- c. Respondent self-administered Norco, a controlled substance, without direction to do so from a licensed physician and surgeon, dentist or podiatrist.

#### **Sher Institute for Reproductive Medicine**

### December 26, 2007

d. Respondent obtained Vicodin, a controlled substance, by fraud, deceit, misrepresentation or subterfuge or by the concealment of a material fact in violation of Health and Safety Code section 11173(a), by using her employer's prescription pad and signature stamp, then faxing the prescription to a Safeway pharmacy to be filled, and taking the Vicodin for her own personal use.

- e. Respondent possessed Vicodin, a controlled substance, in violation of Code section 4060, in that she did not have a prescription for that controlled substance.
- f. Respondent self-administered Vicodin, a controlled substance, without direction from a licensed physician and surgeon, dentist or podiatrist.

#### January 10, 2008

g. Respondent attempted to obtain Vicodin, a controlled substance, by fraud, deceit, misrepresentation or subterfuge or by the concealment of a material fact in violation of Health and Safety Code section 11173(a), by using her employer's prescription pad and signature stamp, then faxing the prescription to a Target pharmacy to be filled.

### January 2008

- h. Respondent obtained Vicodin, a controlled substance, by fraud, deceit, misrepresentation or subterfuge or by the concealment of a material fact in violation of Health and Safety Code section 11173(a) by taking Vicodin from her son for her own personal use.
- i. Respondent possessed Vicodin, a controlled substance, in violation of Code section
   4060, in that she did not have a prescription for that controlled substance.
- j. Respondent self-administered Vicodin, a controlled substance, without direction from a licensed physician and surgeon, dentist or podiatrist.

#### **FOURTH CAUSE FOR DISCIPLINE**

### (Falsified, Made Incorrect or Inconsistent Entries In Hospital or Patient Records)

• .	13.	Respondent is subject to discipline under Code section 2761(a), on the grounds of
unp	rofessi	sional conduct as defined in Code section 2762(e), in that between December 4, 2008
and	Decer	mber 31, 2008, while employed as a registered nurse at Sutter Memorial Hospital,
loca	ted in	Sacramento, California, Respondent falsified, made grossly incorrect, grossly
inco	nsiste	ent or unintelligible entries in hospital or patient records in the following respects:
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#### Patient 3:

a. On or about December 31, 2008, at 2355 hours, Respondent signed out two (2) tablets of Norco for administration, but failed to account for the disposition of the Norco in any hospital or patient record.

#### Patient 7:

b. On or about December 25, 2008, at 0709 hours, Respondent signed out two (2) tablets of Norco without a physician's order, and failed to account for the disposition of the Norco in any hospital or patient record. In addition, Respondent was not assigned to care for this patient.

#### Patient 8:

c. On or about December 24, 2008, at 0627 hours, Respondent signed out two (2) tablets of Norco for administration, but failed to account for the disposition of the Norco in any hospital or patient record.

### Patient 9:

d. On or about December 20, 2008, at 0015 hours, Respondent signed out two (2) tablets of Norco without a physician's order, and failed to account for the disposition of the Norco in any hospital or patient record.

### Patient 11:

e. On or about December 11, 2008, at 0653 hours, Respondent signed out two (2) tablets of Norco without a physician's order, and failed to account for the disposition of the Norco in any hospital or patient record.

### Patient 12:

f. On or about December 10, 2008, at 0551 hours, Respondent signed out two (2) tablets of Norco without a physician's order, and failed to account for the disposition of the Norco in any hospital or patient record.

### Patient 14:

g. On or about December 5, 2008, at 0048 hours, Respondent signed out two (2) tablets of Norco for administration, but failed to account for the disposition of the Norco in any hospital

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1	or patient record. In addition, Respondent was not assigned to care for this patient at the time of			
2	withdrawing the medication.			
3	PRAYER			
4	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,			
5	and that following the hearing, the Board of Registered Nursing issue a decision:			
6	1. Revoking or suspending Registered Nurse License Number 465252, issued to			
7	Melanie Lynn Weaver;			
8	2. Ordering Melanie Lynn Weaver to pay the Board of Registered Nursing the			
9	reasonable costs of the investigation and enforcement of this case, pursuant to Business and			
10	Professions Code section 125.3; and,			
11	3. Taking such other and further action as deemed necessary and proper.			
12	DATED: OCTOBER 02, 2012 ALOUISE R. BAILEY, M.ED., RN			
13	Executive Officer Board of Registered Nursing			
14	Department of Consumer Affairs State of California			
15	Complainant			
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